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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,028	10/02/2003	Akihiro Hatakenaka	1046.1301	6928

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EXAMINER

PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/676,028

Applicant(s)

HATAKENAKA, AKIHIRO

Examiner

Tammara R. Peyton

Art Unit

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/2/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamamoto, US 6,236,802.

As per claims 1-29, Yamamoto teaches an information processing system setting a parameter (special effects filtering, etc.) related to target data (video/ still image), comprising:

an output unit outputting the target data;

an operation unit detecting a user's indication (editing changes);

Art Unit: 2182

an output control unit changing a parameter value sequentially as the time elapses (col. 6, lines 10-col. 8, lines 1-42, and col. 12) and outputting the target data with the parameter value set, from said output unit; and

a processing unit establishing the parameter value when detecting the user's indication as a parameter value related to the target data. (Abstract, cols. 1-20)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP-2000-137832, filed as prior art.

As per claim 29, JP-2000-137832 teaches a method of displaying image data or sound data sequentially adjusted based on an input parameter, comprising: adjusting a value with respect to image data or sound data based on an input parameter, the value of the image data or the sound data being adjusted sequentially in response to the input parameter; and displaying a preview indicating a time-based adjustment of the image data or the sound data as the value thereof is adjusted sequentially.

Art Unit: 2182

JP-2000-137832 teaches parameter values change with the passage of time, and the parameter value when a user instruction has been detected is established as the parameter value for object data. Further, JP-2000-137832 also teaches the use of an user interface for the striking operation of golf game or the like, the horizontal and vertical striking position and striking strength and the like parameters that change with the passage of time, and establishing parameters at the time when then was input from a user as the established value. It would have been obvious to one of ordinary skill at the time the invention was made that JP-2000-137832 adjusting the image or sound data in response to the user's instructions. (see Abstract)

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yaegashi et al., (US 6,154,601), filed as prior art.

As per claim 29, Yaegashi teaches a method of displaying image data or sound data sequentially adjusted based on an input parameter, comprising: adjusting a value with respect to image data or sound data based on an input parameter, the value of the image data or the sound data being adjusted sequentially in response to the input parameter; and displaying a preview indicating a time-based adjustment of the image data or the sound data as the value thereof is adjusted sequentially.

Yaegashi teaches a system for editing a plurality of moving picture information of image information read from a storage device to generate edited moving picture information as an image stream. The editing process includes

Art Unit: 2182

editing sound information contained in said plurality of said image information materials read from said storage device by adjusting parameters relating to said sound information so that at least two of said plurality of said sound information are smoothly overlapped to generate edited sound information; and displaying said edited sound information and said edited moving picture information on a screen. It would have been obvious to one of ordinary skill at the time the invention was made that Yaegashi teaches wherein the screen used to display the parameter changes includes a time-based adjustment based on the user's changes. (Yaegashi, col. 7, lines 55-col. 18)

### **Response to Applicant's Arguments**

Applicant's Attorney argues that Yamamoto does not teach or suggest "changing a parameter value sequentially as the time elapses and outputting the target data with the parameter value set" via a preview window. Examiner disagrees with Applicant. Examiner believes that Yamamoto discloses a system wherein the user is able to edit a video/film and a display of the changes are outputted to a display on the system. Specifically, Yamamoto teaches the preview window 36 is an area for displaying the image based on the video data of the material clip MC or the fat clip FC in response to manipulation of an unshown preview button, view button, all preview button or all view button. Due to the provision of such display area, it becomes possible for the user to confirm, during his editing work, the video image of the material clip MC or the fat clip FC

Art Unit: 2182

generated as a result of the editing, (col. 12, lines 28-34). The claim language "sequentially as the time elapses" is not clearly define a time between the editing and the preview of the user changes. The specification of Applicant does not expressly define what is meant by "sequentially as the time elapses", Examiner believe one of the possible explanation is found in paragraphs 0071-0074 that states:

based on a time (a replay time) expended in changing the parameter from the minimum value to the maximum value, a difference between the maximum value and the minimum value and a time expended in a processing loop where the respective are executed round. [0072] In any image, however, if there is fixed a range of values that the parameter relative to this image can take, it is sought which value in this range the parameter relative to the original image takes, then the indicator is displayed in a position, corresponding to this value, of the slider 4, and the replay may be transited from the minimum value to the maximum value in the value range thereof. Next, the information processing unit 102 executes, based on the present parameter value, the effect process for the preview image (step 201). For instance, the saturation, etc. of the preview image is thereby set to the parameter value described above, and the display data processing unit 104 process is the image on the basis of the parameter. [0074] Subsequently, the post-processing preview image is transferred to the video RAM of the display control unit 101 from the display data processing unit 104. The display control unit 101 displays the preview image on the preview display box 2 on the operation screen of the display device 100 (step 202).

Examiner is taking the position that Yamamoto's system detects changes from the user as it relates to the video/film and edited frame values related to the

Art Unit: 2182

changes are utilized during a preview via the preview window,36. (Yamamoto, (col. 6, lines 10-col. 8, lines 1-42, and col. 12, lines 28-col. 15) Therefore, Examiner is taking the position that “sequentially as the time elapses” does not clearly define a time between the occurrence of the user changes and the subsequent preview display of the user’s changes. This limitation is not structurally involved in the elements of the recited system, therefore, this limitation is deemed to be nonfunctional descriptive material. The differences between the content of the Applicant’s invention and the prior art of record are merely subjective. Thus, this nonfunctional descriptive material (“sequentially as the time elapses”) will not distinguish the claimed invention from the prior art of record in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404, (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994) also see MPEP 2106.

### Conclusion

Applicant’s amendment (claim 29) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be



Art Unit: 2182

calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (571) 272-4157. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Huynh can be reached on (571) 272-4147. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(571) 273-8300

Hand-delivered responses should be brought to:

USTPO, Randolph Building, Customer Service Window  
401 Dulany Street  
Alexandria, VA 22314.

Tammara Peyton  
March 16, 2006

TAMMARA PEYTON  
PRIMARY EXAMINER  
